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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

CC Docket No. 97-213

In the Matter of

Ardis Company, CONXUS Network, Inc.,  
Metrocall, Inc., MobileMedia Communications,  
Inc., Motorola, Inc., PageMart Wireless, Inc.,  
Preferred Networks, Inc., RAM Technologies,  
Inc., Real Time Strategies, Inc. and TekNow, Inc.

Joint Petition for an Extension of the Compliance  
Date Under Section 107(c) of the Communications  
Assistance for Law Enforcement Act

**JOINT PETITION FOR EXTENSION OF COMPLIANCE DATE**

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## SUMMARY

The Communications Assistance for Law Enforcement Act ("CALEA") authorizes the Commission to grant an extension of the assistance capability compliance date set forth in CALEA "if the Commission determines that compliance . . . is not reasonably achievable through application of technology available within the compliance period."<sup>1</sup> It is undisputed that CALEA-compliant technology for advanced messaging services will not be available by October 25, 1998. Accordingly, for the reasons discussed below, Petitioners respectfully request that the Commission grant a two-year extension of the compliance deadline in order to permit the messaging industry, working with law enforcement's capacity and capability requirements, to develop the necessary technology to satisfy this obligation.

Petitioners are committed to providing the capability and capacity required by CALEA. Petitioners have in the past made, and will continue to make, every effort to provide law enforcement officials with the ability to engage in court ordered electronic surveillance. Indeed, the messaging industry already routinely provides law enforcement officials, pursuant to a valid warrant, with clone pagers, which allow law enforcement officials to transparently intercept all pages intended for the subject of the warrant. This practice is consistent with the industry standard for traditional paging services released by the Personal Communication Industry Association's Technical Committee and will continue to enable law enforcement to monitor the overwhelming majority of messaging subscribers that utilize such services.<sup>2</sup>

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<sup>1</sup> Pub. L. 103-414, 108 Stat. 4279, § 107(c) (1994), *codified at* 47 U.S.C. §1006(c).

<sup>2</sup> PCIA, *Standard 1: CALEA Specification for Traditional Paging* (adopted on May 4, 1998). Petitioners have been active participants in this standards effort.

For more recent and advanced messaging technologies, however, Petitioners are unable to provide such a satisfactory solution until law enforcement has been able to identify its capacity and capability requirements and an appropriate industry standard has been established. Because of understandable prioritization of its resources, the Federal Bureau of Investigation has focused its energies on other industries (in particular, local exchange, cellular and broadband personal communications services ("PCS")) and has not yet identified its requirements for the messaging industry. Without the input of the FBI, especially its capacity requirements, it is virtually impossible for the messaging industry to satisfy CALEA's assistance capability requirements for advanced messaging services by October 25, 1998. Therefore, Petitioners request that the compliance deadline be extended for at least two years until law enforcement's capacity and capability requirements can be identified so that an appropriate industry standard can be promulgated.

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Exhibit E:	PCIA, <i>CALEA Suite of Standards for Traditional Paging, Advanced Messaging and Ancillary Services</i> (adopted on May 4, 1998)

## **ATTACHED PETITIONS FOR EXTENSION OF THE COMPLIANCE DATE**

Attachment 1: Ardis Company

Attachment 2: CONXUS Network, Inc.

Attachment 3: Metrocall, Inc.

Attachment 4: MobileMedia Communications, Inc.

Attachment 5: PageMart Wireless, Inc.

Attachment 6: Preferred Networks, Inc.

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**CC Docket No. 97-213**

**JOINT PETITION FOR EXTENSION OF COMPLIANCE DATE**

Pursuant to Section 107(c) of the Communications Assistance For Law Enforcement Act ("CALEA"),<sup>1</sup> Ardis Company, CONXUS Network, Inc., Metrocall, Inc., MobileMedia Communications, Inc., Motorola, Inc., PageMart Wireless, Inc., Preferred Networks, Inc., RAM Technologies, Inc., Real Time Strategies, Inc. and TekNow, Inc. (jointly referred to as "Petitioners") -- both jointly through this petition and individually through their separate petitions<sup>2</sup> -- respectfully request that the Commission grant an extension of time for

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<sup>1</sup> Pub. L. 103-414, 108 Stat. 4279 (1994), *codified at* 47 U.S.C. §§ 1001 *et seq.*

<sup>2</sup> In an effort to minimize the administrative burden on the Commission staff, Petitioners have attempted to "bundle" their separate petitions for extension into one filing. Attached to this joint petition are individual petitions, pursuant to section 107 of CALEA, from most of the parties to this joint petition. In addition, Arch Communications Group, Inc. -- which has previously filed such a petition with the Commission and has been active with Petitioners in the standards process discussed

(Continued...)

complying with the assistance capability requirements of Section 103 of CALEA.<sup>3</sup> Although Petitioners plan to provide clone devices to law enforcement -- satisfying CALEA's requirements for the traditional paging services used by the vast majority of paging subscribers -- as detailed below, compliance with CALEA's capability requirements for more recent and advanced messaging services (such as forwarding, two-way paging, and real-time wireless packet data services) is not reasonably achievable through the application of existing messaging network technology, and will not be reasonably achievable until at least two years after final capacity and capability requirements for such services are promulgated.

## **I. INTRODUCTION**

Pursuant to the "assistance capability requirements" of Section 103(a) of CALEA, by October 25, 1998, telecommunications carriers are generally required to ensure that their equipment, facilities, and services are capable of providing law enforcement officials with the call content and that "call identifying information that is reasonably available to the carrier" for an intercepted communication.<sup>4</sup> As explained in Section 107, the Attorney General is required to

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(...Continued)

in this joint petition -- supports the arguments raised in this joint petition and urges the Commission to grant an extension for the entire messaging industry. In the event the Commission decides to grant any of the petitions in this filing, Petitioners ask that the extension be granted to all parties who have joined in this joint petition or indicated their support for same. If, however, the Commission decides that it is not authorized to act in such an efficient manner, Petitioners ask that the Commission consider and grant each of the attached petitions (and those already pending before the Commission) separately.

<sup>3</sup> Section 103 of CALEA; 47 U.S.C. § 1002.

<sup>4</sup> Section 103(a) of CALEA; 47 U.S.C. § 1002(a).

consult with the telecommunications industry's standard-setting organizations in order to assist these organizations in promulgating technical standards for CALEA-compliant equipment.<sup>5</sup> These standards were intended to allow manufacturers to build equipment that meets the assistance capability requirements of Section 103(a) as they designed new equipment for their service provider customers. Manufacturers and carriers are further required to cooperate in order to ensure that carriers are provided with CALEA-compliant equipment "on a reasonably timely basis and at a reasonable charge."<sup>6</sup> Thus, in enacting CALEA, Congress envisioned a cooperative process whereby industry standards-setting bodies would promulgate technical standards for CALEA-compliant equipment, and manufacturers would utilize these standards to provide telecommunications carriers -- including messaging providers -- with access to such equipment.

At the same time, law enforcement was to provide industry, not later than one year after CALEA's enactment, with notice of its simultaneous capacity requirements.<sup>7</sup> Industry would then have three years to factor these requirements into its capability standard and design and install the additional equipment necessary to implement this capacity requirement.

Consistent with this statutory scheme, Congress expected that sometime between the October 25, 1994 CALEA enactment date and the October 25, 1998 assistance capability compliance deadline, capacity and capability standards would be promulgated and CALEA-compliant messaging equipment would be made commercially available. Thus, as messaging

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<sup>5</sup> Section 107(a)(1) of CALEA; 47 U.S.C. § 1006(a)(1).

<sup>6</sup> Section 106(a) of CALEA; 47 U.S.C. § 1005(a).

<sup>7</sup> Section 104(a) of CALEA; 47 U.S.C. § 1003(a).



providers naturally upgraded and replaced their network infrastructure over this four year period, they would be replacing old, non-compliant equipment with new, compliant equipment without significant financial burden. In other words, as a result of a gradual replacement process, carriers would not have to make a large and sudden investment in new equipment at the compliance deadline in order to make their networks capable of meeting the assistance capability and capacity requirements.

Unfortunately, the Congressionally-envisioned gradual and low cost transition to CALEA-compliant equipment has not taken place. For example, as PageNet has noted, “[s]ince the enactment of CALEA, industry associations have been working with law enforcement in order to develop CALEA capability standards for two-way voice networks, but law enforcement agencies have not had adequate time or resources to assist in establishing a CALEA capability standard for paging, narrowband PCS, and SMR.”<sup>8</sup> Similarly, the FBI’s recent *Final Capacity Notice* omits messaging providers from its capacity requirements, stating that the requirements only apply to “telecommunications carriers offering services that are of the most immediate concern to law enforcement -- that is those telecommunications carriers offering local exchange services and certain commercial mobile services, specifically cellular service and personal communications service (PCS).”<sup>9</sup>

Nevertheless, Petitioners are committed to providing the capability and capacity required by CALEA. Petitioners have in the past made, and will continue to make, every effort

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<sup>8</sup> Paging Network, Inc., *Comments*, CC Docket, No. 97-213, at 2 (filed on May 8, 1998).

<sup>9</sup> *Implementation of Section 104 of the Communications Assistance for Law Enforcement Act*, 63 Fed. Reg. 12,218, 12,200 (March 12, 1998).

to provide law enforcement officials with the ability to engage in court ordered electronic surveillance. In particular, Petitioners routinely provide law enforcement officials, pursuant to a valid warrant, with clone pagers,<sup>10</sup> which allow law enforcement officials to transparently intercept all pages intended for the subject of the warrant. This capability provides law enforcement officials with the ability to monitor the communications of approximately 95 percent of the nation's paging customers who use traditional, one-way paging services.<sup>11</sup> Indeed, representatives of law enforcement have repeatedly advised the paging industry that clone pagers are the preferable monitoring device for such services.<sup>12</sup> The continued provision of clone pagers is also consistent with Congress' intent to preserve law enforcement's pre-existing monitoring capability:

The Committee intends the assistance requirements . . . to be both a floor and a ceiling. The FBI Director testified that the legislation was intended to preserve the status quo, that it was intended to provide the law enforcement no more and no less access than it had in the past.<sup>13</sup>

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<sup>10</sup> A clone pager is a radio receiving device that is pre-programmed by a paging service provider with the intercept subject's radio receiving address (i.e., capcode) and is set to monitor the subject's radio receiving frequency. A clone pager has the same characteristics and call content reception and processing features as the intercept subject's pager.

<sup>11</sup> Based on list of top 29 Paging Carriers published by *Radio Communications Report* on October 27, 1997. Traditional, one-way paging supports the one-way, wireless transmission of tone, numeric, alphanumeric and voice messages to a radio receiving device (i.e., pager) within a stipulated, predefined geographic radio coverage area. It does not include such advanced messaging services as subscriber defined on-demand roaming, forwarding and redirection, two-way and acknowledged voice paging or other services.

<sup>12</sup> See, e.g., FBI Comments to the Personal Communications Industry Association ("PCIA") at the PCIA offices in Alexandria, Virginia (Dec. 17, 1997); letter from Mr. Robert L. Hoggarth, Senior Vice President - PCIA, to Special Agent Levord Burns, FBI (March 12, 1998) (attached as Exhibit A). See also AirTouch Paging, Inc., *Petition for an Extension of the CALEA Capability Assistance Compliance Date*, at 4-5 (filed on May 4, 1998) ("AirTouch Petition"); AirTouch Communications, Inc., *Comments*, CC Docket No. 97-213, at 13 (filed on May 8, 1998) ("AirTouch Comments").

<sup>13</sup> See, e.g., H.R. Rep. 103-827, at 22-23 (1994) ("House Report").

Thus, granting Petitioners' extension request will have only a minimal impact on law enforcement's surveillance capability.<sup>14</sup>

For advanced messaging services, however, Petitioners are unable to provide such a satisfactory solution until law enforcement's requirements have been identified and appropriate industry standards have been established. As discussed in greater detail below, because of its prioritization of resources, the Federal Bureau of Investigation has focused its energies on other industries (in particular, local exchange, cellular and broadband personal communications services ("PCS")) and has not yet identified its requirements for the messaging industry. Without the input of the FBI, especially its capacity requirements, it is virtually impossible for the messaging industry to satisfy CALEA's assistance capability requirements for advanced messaging services by October 25, 1998. Therefore, Petitioners request that the compliance deadline be extended for at least two years until law enforcement's capacity and capability requirements can be identified so that an appropriate industry standard can be promulgated.

## **II. STATUTORY CRITERIA FOR EXTENSION OF THE COMPLIANCE DEADLINE**

Under Section 107(c) of CALEA, a telecommunications carrier "may petition the Commission for 1 or more extensions of the deadline for complying with the assistance

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<sup>14</sup> Provision of clone pagers is also consistent with the industry "safe harbor" standard promulgated by PCIA's Technical Committee for traditional, one-way paging: PCIA, *Standard 1: CALEA Specification for Traditional Paging* (adopted on May 4, 1998) ("Traditional Paging Standard") (attached as Exhibit B). Petitioners have been active in the standards process that formulated this document and that is working on a similar standard for advanced messaging services.

capability requirements under section 103.”<sup>15</sup> The Commission may then, “after consultation with the Attorney General,” grant such an extension request if “compliance with the assistance capability requirements ... *is not reasonably achievable through application of technology available within the compliance period.*”<sup>16</sup> As discussed below, Petitioners clearly satisfy this statutory requirement for an extension of the October 25, 1998 compliance deadline.

### **III. COMPLIANCE WITH THE ASSISTANCE CAPABILITY REQUIREMENTS IS NOT REASONABLY ACHIEVABLE FOR PETITIONERS BY OCTOBER 25, 1998**

As several parties noted in the Commission’s recent *Public Notice*,<sup>17</sup> since CALEA’s enactment in 1994, the FBI has publicly and repeatedly stated that it will utilize its

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<sup>15</sup> Section 107(c)(1) of CALEA; 47 U.S.C. § 1006(c)(1). It is well-established that it often takes up to two years to develop, test and install equipment to an industry standard. *See, e.g.,* Telecommunications Industry Association (“TIA”), *Petition for Rulemaking Under Section 1006 of the Communications Act of 1934, as amended, and Section 107 of the Communications Assistance for Law Enforcement Act to Resolve Technical Issues and Establish a New Compliance Schedule*, at 10 (filed April 2, 1998) (“TIA Petition”); Testimony of the Attorney General before the House Appropriations Subcommittee for Commerce, State, Justice, the Judiciary and Related Agencies (February 26, 1998). Because law enforcement’s requirements are unlikely to be established (and an appropriate industry standard promulgated) by October 25, 1998, further extensions beyond the current request may be necessary.

<sup>16</sup> Section 107(c)(2) of CALEA; 47 U.S.C. § 1006(c)(2) (emphasis added).

<sup>17</sup> Public Notice, *In the Matter of Communication Assistance for Law Enforcement Act*, DA No. 98-762, CC Docket No. 97-213 (released on April 20, 1998). *See, e.g.,* AirTouch Comments, at 4-6; Metrocall, Inc., *Reply Comments*, at 4-5; PCIA, *Comments*, at 5-9; Southern Communications Services, Inc., *Comments*, at 5; TIA, *Comments*, at 7-13; TIA, *Reply Comments*, at 10.

*See also* AirTouch Petition, at 3-4; TIA Petition, at 10; Testimony of Mr. Matthew J. Flanigan, President, Telecommunications Industry Association before the House Judiciary Subcommittee on Crime (Oct. 27, 1997) (attached as an appendix to the TIA Petition).

limited implementation resources in a manner that allows law enforcement officials to conduct the types of electronic surveillance that will have the greatest impact on thwarting and prosecuting criminal activity. Consistent with this philosophy, the FBI has focused its efforts on developing the ability to monitor potential illegal activity that is conducted using local exchange, cellular, and broadband PCS facilities.<sup>18</sup>

The FBI's focus is consistent with Congress' own emphasis in passing CALEA. Although cellular and wireline technologies are repeatedly discussed in the House Report that accompanied CALEA, paging is mentioned only once. For example, the House Report fails to enumerate messaging service providers in the detailed list of telecommunications carriers Congress intended for CALEA to cover.<sup>19</sup> The scope of CALEA, Congress emphasized, was on those "components of the public *switched* network where law enforcement agencies have always served most of their surveillance orders."<sup>20</sup> Both the FBI's and Congress' prioritization is perfectly understandable, given the relatively small number of wiretap orders issued each year to monitor messaging subscribers.<sup>21</sup>

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<sup>18</sup> *Final Capacity Notice*, 63 Fed. Reg. at 12,200 ("this Final Notice of Capacity should be viewed as the first phase applicable to telecommunications carriers offering services that are of most immediate concern to law enforcement -- that is those telecommunications carriers offering local exchange services and certain commercial mobile services, specifically cellular service and personal communications service (PCS).").

<sup>19</sup> House Report, at 20 ("This definition encompasses such service providers as local exchange carriers, interexchange carriers, competitive access providers (CAPs), cellular carriers, providers of personal communications services (PCS), satellite-based service providers, cable operators and electric or other utilities that provide telecommunications services for hire to the public. . .").

<sup>20</sup> *Id.*, at 18.

<sup>21</sup> Administrative Office of the United States Courts, *Annual Report of the Director of the Administrative Office of the United States Courts on Applications for Orders Authorizing or*

(Continued...)

CALEA requires the FBI to: (1) promulgate final capacity requirements by October 25, 1995;<sup>22</sup> and (2) cooperate with industry standards-setting bodies to help translate CALEA's assistance capability requirements into technical standards for the manufacture of telecommunications equipment.<sup>23</sup> Because of its prioritization, the FBI has been unable to satisfy either of these requirements for advanced messaging services. As noted above, the *Final Capacity Notice* -- which was issued on March 12, 1998 -- made no mention of the paging industry.<sup>24</sup> Further, with the exception of its comments regarding clone pagers, the FBI has made no public statements regarding specific messaging capabilities that it believes are required by Section 103.

This lack of FBI guidance on the issues of messaging capacity and capability has made it difficult for Petitioners to design, build, test and install CALEA-compliant equipment for advanced messaging. Nevertheless, the messaging industry has initiated a standards-setting exercise in which Petitioners have been active participants.

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*Approving the Interception of Wire, Oral, or Electronic Communications -- 1997* (released in April 1998).

<sup>22</sup> Section 104(a)(1) of CALEA; 47 U.S.C. § 1003(a)(1).

<sup>23</sup> Section 107(a)(1) of CALEA; 47 U.S.C. § 1006(a)(1). Petitioners note that, although industry may "consult" with law enforcement in establishing capability standards, law enforcement may not, ultimately, dictate specific designs or solutions. Section 103(b) of CALEA; 47 U.S.C. § 1002(b). CALEA provides that "the telecommunications industry itself shall decide how to implement law enforcement's requirements." H.R. Rep. No. 103-827, at 19 (1994).

<sup>24</sup> *Final Capacity Notice*, 63 Fed. Reg. at 12,200. This decision to exclude messaging -- placing it on a separate compliance path from that for wireline, cellular and broadband PCS providers -- is consistent with the FBI's statements to PCIA in 1996. See, e.g., FBI Presentation to PCIA, Alexandria, Va. (July 23, 1996) (attached as Exhibit C).

In December 1997, shortly after the promulgation of the interim standard for local exchange, cellular and broadband PCS telephony -- J-STD-025 -- the messaging industry, under the auspices of PCIA, established a working group to review the interim standard and the FBI's Electronic Surveillance Interface ("ESI") document. The working group was asked to determine if the concepts in either document were applicable to the messaging industry.<sup>25</sup> After carefully reviewing both documents, the working group determined that neither the interim standard for wireline and wireless voice telephony nor the ESI readily translated to messaging and that a separate standard for the messaging industry would be necessary.<sup>26</sup>

The concepts contained in both documents assume a "switch-centric" context that simply is not analogous to the messaging industry. This is particularly true given the fact that "messaging" encompasses a wide variety of services, ranging from simple one-way text messaging to sophisticated applications that combine two-way voice and data services. Moreover, many messaging services are "information services" (e.g., providing features such as news updates, stock quotes, electronic mail, voice mail, or other store and forward services), which Congress specifically exempted from CALEA coverage.<sup>27</sup>

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<sup>25</sup> At PCIA's invitation, representatives from the FBI were invited to participate in the working group's first meeting (on December 24, 1997). During the meeting, industry representatives and the FBI indicated their mutual interest in working together on CALEA implementation. Citing the then-unpublished *Final Capacity Notice*, the FBI representatives conceded that they had been unable to devote resources to considering messaging issues and indicated that the FBI would be flexible regarding the October 1998 compliance deadline. The representatives also expressed interest in working with the messaging industry, through PCIA, to better understand the industry -- a request that PCIA has accepted.

<sup>26</sup> This determination is consistent with the FBI's own conclusions. See Department of Justice and FBI, *Joint Petition for an Expedited Rulemaking*, ¶ 3 (filed March 27, 1998) (indicating that J-STD-025 only applies to wireline, cellular and broadband PCS carriers).

<sup>27</sup> Section 102(6) & (8)(C)(i); 47 U.S.C. § 1001(6) & (8)(C)(i). See also House Report, at 23.

As a result, the PCIA Technical Committee established a subcommittee to initiate a CALEA project. This joint carrier and manufacturer effort is seeking to translate CALEA's assistance capability requirements into technical standards for the messaging industry. The subcommittee has completed the first phase of such a standard (addressing the use of clone pagers for traditional paging) and has shared the document with law enforcement.<sup>28</sup> The subcommittee has also begun a second phase -- seeking to create a standardized solution for advanced messaging services.<sup>29</sup>

However, FBI input -- especially regarding its capacity requirements -- is critical to the continued success of this industry effort. As discussed below, industry's solution for traditional, one-way paging (clone pagers) can easily satisfy any reasonable capacity requirement law enforcement might promulgate. Thus, the absence of such a requirement was not an obstacle to the first phase of the PCIA standards process. The absence of a capacity requirement, however, is having a dramatic impact on the subcommittee's work to develop standards for more advanced messaging features. Depending on how many simultaneous interceptions a service provider is required to conduct, certain cost-effective solutions may be technically feasible and others may not. In the absence of such requirements, the subcommittee must make good faith estimates regarding law enforcement's capacity requirements and hope that it has selected designs that are sufficiently scalable to satisfy whatever capacity requirements the FBI may eventually identify. Moreover, unlike traditional, one-way paging (where law enforcement has

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<sup>28</sup> Letter from Mr. Robert L. Hoggarth, Senior Vice President - PCIA, to Special Agent Ward Jackson, FBI (May 12, 1998) (attached as Exhibit D).

<sup>29</sup> See, e.g., PCIA, *CALEA Suite of Standards for Traditional Paging, Advanced Messaging and Ancillary Services* (adopted on May 4, 1998) (attached as Exhibit E).



always indicated its preference for clone pagers), with advanced messaging services, law enforcement has not provided similar guidance to industry.<sup>30</sup>

For these reasons, the Petitioners urge the Commission to grant an immediate, two-year extension of the compliance deadline until law enforcement's capacity and capability requirements can be identified and an appropriate industry standard (responding to these requirements) can be promulgated.

#### **IV. AN EXTENSION OF THE COMPLIANCE DEADLINE WILL ONLY HAVE A MINIMAL IMPACT ON LAW ENFORCEMENT'S SURVEILLANCE CAPABILITY**

Fortunately, an extension of the compliance deadline will only have a minimal impact on law enforcement's ability to conduct wiretaps. Petitioners routinely cooperate with law enforcement officials by providing them, pursuant to valid court orders, "clone" radio receiving devices. These clone pagers allow law enforcement officials to surreptitiously receive whatever messages the target of the electronic surveillance warrant is receiving on his or her pager, thereby satisfying the intent of CALEA and providing law enforcement officials with both call content and call-identifying information. Indeed, the FBI has repeatedly advised the paging industry that the continued provision of clone pagers is the preferable CALEA solution for traditional, one-way paging services (which comprise the overwhelming majority of the current paging market).

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<sup>30</sup> Unlike traditional paging, the basic features of which have existed for a couple of decades, advanced messaging encompasses a variety of new and evolving technologies -- the full potential of which have yet to be completely recognized and developed.

In the first phase of its standards-setting process, PCIA's subcommittee reviewed the use of clone pagers for traditional, one-way paging and determined that clones were the most desirable means of satisfying CALEA's obligations for such services. Unlike other possible solutions, for example, clones are inherently transparent both to an intercept subject and a service provider's staff.<sup>31</sup> In addition, clones can support a virtually limitless number of simultaneous interceptions and, hence, are not subject to inherent capacity restrictions.<sup>32</sup>

Thus, the paging industry has already identified a CALEA solution for most current paging subscribers -- a solution that Petitioners are already providing to law enforcement. In seeking this extension, therefore, Petitioners do not intend to delay CALEA compliance for the overwhelming majority of messaging services. Instead, they simply seek sufficient time so that, after having the benefit of law enforcement's capacity and capability requirements, the industry can identify, design, develop, test and install a similarly reasonable solution for less established and more advanced messaging services.

## V. CONCLUSION

For the reasons set forth above, Petitioners requests that the Commission recognize the good faith efforts of the messaging industry to satisfy its CALEA obligations and extend the deadline for complying with the assistance capability requirements of CALEA for at

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<sup>31</sup> Traditional Paging Standard, at 3.

<sup>32</sup> *Id.*

least two years until law enforcement's capacity and capability requirements for advanced messaging services can be identified and an appropriate industry standard can be promulgated.

Respectfully Submitted,



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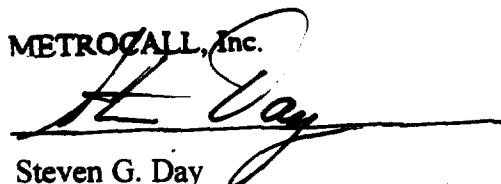
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**Attorneys for Motorola, Inc.**

June 3, 1998



# Exhibit A



March 12, 1998

Levord M. Burns  
Supervisory Special Agent  
CALEA Implementation Section  
Federal Bureau of Investigation  
14800 Conference Center Dr. Suite 300  
Chantilly, Virginia 22021

Dear Agent Burns:

The paging industry appreciated your presence at the PCIA meeting last December to discuss CALEA compliance obligations. The industry has a solid track record of cooperation with law enforcement and I'm glad that spirit continues in the present circumstances. Although we understand that the bulk of your efforts to date (including negotiations and the development of the interim J-STD-025 standard) have focussed on two-way voice carriers, we welcome the opportunity for further discussions with you regarding paging services. As we have shared with you at both our previous meetings, without FBI interest the industry cannot meet existing CALEA compliance deadlines.

The industry was pleased to hear you reaffirm the government's position that traditional one-way paging services could satisfy CALEA obligations through the continued use of cloned pagers. Cloned pagers continue to offer the best form of CALEA compliance for traditional one way paging traffic.

Contrasted with your statements at our December meeting, the FBI's Reply Comments in FCC Docket No. 97-213 have created some confusion regarding the use of cloned pagers. In its comments, the FBI asserts that "clone pager-based interceptions have only limited effectiveness and utility, and fail to fully meet CALEA's section 103 requirements." (FBI Reply Comments, February 11, 1998 at page 22). While we agree that statement is accurate with respect to advanced and two-way paging services, cloning remains the most effective and efficient form of CALEA compliance for traditional one-way numeric and alpha paging services. Your further thoughts on that matter are appreciated.

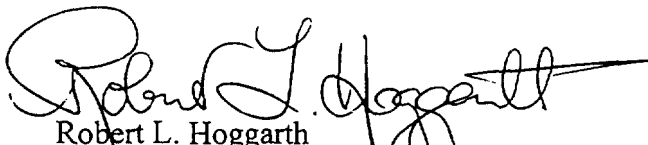
As we discussed at the December meeting PCIA and other organizations have produced documents which describe the radio paging industry noting current industry services and trends. Attached for your review and records is PCIA's 1993 publication *An Overview of the Radiopaging Industry*. Although almost five years old, the document does a good job of

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describing the basic functions of the industry. PCIA hopes to be completing additional reports later this year on the emerging narrowband PCS industry as well. The Strategis Group here in Washington D.C. produces an annual report on the state of the industry which is available to the public. Last month the consulting firm of Frost & Sullivan announced the release of its new study on the narrowband PCS industry which you may also find useful.

We look forward to continued dialogue on CALEA compliance matters. If you have questions or comments on our efforts please direct your inquiries to me by phone or fax here at PCIA.

Sincerely,



Robert L. Hoggarth  
Senior Vice President, Paging & Narrowband

Enclosure

cc: Jay Kitchen  
Steve Colgate, without enclosure  
Mike Warren, without enclosure

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